

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

June 2000

2000 LAWS AFFECTING CITIES AND TOWNS

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the references are to the Indiana Code.

PUBLIC LAW 4 - SENATE ENROLLED ACT 14 - EFFECTIVE JULY 1, 2000

TAX ABATEMENT - Amends IC 6-1.1-12.1 - Allows tax abatement to be granted on new research and development equipment.

PUBLIC LAW 10 - SENATE ENROLLED ACT 24 - EFFECTIVE JULY 1, 2000.

ALCOHOL AND DRUG PROGRAMS - RESTRICTED DRIVING PERMITS - Amends IC 9-24-15-6.5 - Allows a person participating in a rehabilitation program certified by either the Division of Mental Health or the Indiana Judicial Center as a condition of the person's probation to be granted a restricted driving permit.

PUBLIC LAW 14 - SENATE ENROLLED ACT 12 - EFFECTIVE VARIOUS DATES

TECHNICAL CORRECTIONS - Makes corrections to several sections of the Indiana Code.

OATH OF OFFICE - Amends IC 5-4-1-4 - Requires copies of city and town officers' oaths of office to be filed with the Clerk of the Circuit Court.

PUBLIC LAW 17 - HOUSE ENROLLED ACT 1157 - EFFECTIVE JULY 1, 2000

DONATIONS TO FOUNDATIONS - Amends IC 36-1-14-1 - Allows river boat gaming revenue to be donated to a community foundation or public school endowment corporation.

PUBLIC LAW 22 - HOUSE ENROLLED ACT 1180 - EFFECTIVE JULY 1, 2000

TEN COMMANDMENTS - Adds IC 36-1-16 - States that an object containing the words of the Ten Commandments may be displayed on real property owned by a political subdivision along with other documents of historical significance that have formed and influenced the United States legal or governmental system. Such display of an object containing the words of the Ten Commandments shall be in the same manner and appearance generally as other documents and objects displayed, and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects.

PUBLIC LAW 25 - HOUSE ENROLLED ACT 1013 - EFFECTIVE JULY 1, 2000

LAW ENFORCEMENT TRAINING BOARD REQUIREMENTS - Amends IC 5-2-1-9
Requires the Law Enforcement Training School or Academy to establish minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training.

PUBLIC LAW 26 - HOUSE ENROLLED ACT 1024 - EFFECTIVE VARIOUS DATES

MEETINGS ON STATE LEGAL HOLIDAYS - Amends IC 1-1-9-1 States that action taken by a city or town on a State legal holiday is valid for all purposes.

ELECTIONS PRINCIPAL COMMITTEE - Adds IC 3-9-1-5.5 - Requires candidates for local office for which the compensation is less than \$5,000 per year and the candidate receives more than \$500 in contributions or the candidate makes more than \$500 in expenditures to have a principal committee.

OTHER ELECTION LAWS - Amends several other sections of Title 3 relating to local election laws.

CENSUS DATA ADVISORY COMMITTEE - Requires such committee to study the standardization of municipal election calendars to conform to county, state and federal elections.

OATH OF OFFICE - Amends IC 5-4-1 - Allows city and town officials to take the oath of office any time after the official's appointment or election. Requires such oaths to be filed with the clerk of the circuit court not later than 30 days after the beginning of the official's term of office.

PUBLIC LAW 27 - HOUSE ENROLLED ACT 1030 - EFFECTIVE JULY 1, 2000

NORTHWEST INDIANA LAW ENFORCEMENT TRAINING CENTER - Amends IC 5-2-1-15.2 - Removes the July 1, 2000 expiration date for the Center.

PUBLIC LAW 30 - HOUSE ENROLLED ACT 1043 - EFFECTIVE JULY 1, 2000

UNEMPLOYMENT COMPENSATION - Amends IC 22-4-4-3 and IC 22-4-11-3 and adds IC 22-4-11-3.2 - Increases the earnings base that is used to compute unemployment compensation and makes adjustments in contribution rates for employers.

PUBLIC LAW 31 - HOUSE ENROLLED ACT 1050 - EFFECTIVE JULY 1, 2000

WORKER'S COMPENSATION - Amends several sections of IC 22-3-2, IC 22-3-3, IC 22-3-4, IC 22-3-6 and IC 22-3-7 - Increases certain benefits provided under worker's compensation laws.

PUBLIC LAW 33 - HOUSE ENROLLED ACT 1055 - EFFECTIVE JULY 1, 2000

MILITARY LEAVE - Amends IC 10-2-4-3 - Provides that an officer or employee who is:

- (1) A member of the Indiana National Guard.
- (2) A member of a reserve component.
- (3) A member of the retired personnel of the naval, air, or grounds forces of the United States.

is entitled to receive from the member's employer a leave of absence from the member's respective duties, in addition to regular vacation period, without loss of time or pay for such time as the member is:

- (1) on training duties of the state of Indiana under the order of the governor as commander in chief; or
- (2) a member of any reserve component under the order of the reserve component authority;

for consecutive or nonconsecutive periods not to exceed a total of fifteen (15) days in any calendar year. The entitlement to a leave of absence without loss of time or pay is not at the discretion of the member's employer.

A member is entitled to receive from the member's employer a leave of absence from the member's respective duties, in addition to the member's regular vacation period for the total number of days that the member is on state active duty under IC 10-2-4-4. Such leave of absence may be with or without loss of time or pay at the discretion of the member's employer.

PUBLIC LAW 35 - HOUSE ENROLLED ACT 1062 - EFFECTIVE JULY 1, 2000

VETERANS MEMORIALS - Adds IC 10-7-13-2 - Allows cities and towns to annually appropriate money to be allocated to nonprofit veterans organizations for the development, establishment, or maintenance of veterans memorials located within the county of a respective city or town allocating the funds.

PUBLIC LAW 36 - HOUSE ENROLLED ACT 1068 - EFFECTIVE JULY 1, 2000

FIRE PROTECTION DISTRICTS - Amends IC 6-1.1-18.5-10.4, IC 36-8-11, and IC 36-8-19-18.5. Adds IC 36-8-11-5.1, IC 36-8-11-9.5 and IC 36-11-22.1 - Allows a city or town located in two counties to establish a fire district. Provides that an equipment replacement fund may be used to purchase housing. Amends statutes governing the dissolution of a district.

PUBLIC LAW 42 - HOUSE ENROLLED ACT 1131 - EFFECTIVE JULY 1, 2000

SPEED LIMITS NEAR SCHOOLS - Amends IC 9-21-5-13 - Makes it a Class B infraction to violate a speed limit that is imposed in the immediate vicinity of a school when children are present. Under prior law this was a Class C infraction.

PUBLIC LAW 43 - HOUSE ENROLLED ACT 1137 - EFFECTIVE JULY 1, 2000

BATTERY ON A FIREFIGHTER - Amends IC 35-42-2-1 - Makes it a Class B misdemeanor to commit battery against a firefighter while he/she is on official duty and also makes it a Class D felony if such battery results in bodily injury to the firefighter.

PUBLIC LAW 46 - HOUSE ENROLLED ACT 1184 - EFFECTIVE JULY 1, 2000

CEMETERIES - Adds IC 14-21-1-26.5 - States that a development plan for a city or town to disturb ground within 100 feet of a recorded burial ground or cemetery within the city or town's limits must be approved by the executive of the city or town and does not require the approval of the Department of Natural Resources.

PUBLIC LAW 47 - HOUSE ENROLLED ACT 1192 - EFFECTIVE JULY 1, 2000

DOMESTIC BATTERY - Amends IC 33-19-6-13, IC 35-33-1-1, and IC 35-42-2-1.3
Adds domestic battery to the list of offenses in which a court shall order the defendant to pay a domestic violence prevention and treatment fee of fifty dollars (\$50).

PUBLIC LAW 49 - HOUSE ENROLLED ACT 1228 - EFFECTIVE JULY 1, 2000

ANNEXATION - Amends IC 36-4-3-2.1 - Provides that if an annexation is with the written consent of all property owners within the area to be annexed, the required notice period is only twenty (20) days.

PUBLIC LAW 50 - HOUSE ENROLLED ACT 1241 - EFFECTIVE JULY 1, 2000

TAX ADJUSTMENT BOARD - Amends IC 6-1.1-29-4 - Changes the first meeting date of such board from September 18 to September 22.

PUBLIC LAW 54 - HOUSE ENROLLED ACT 1293 - EFFECTIVE JULY 1, 2000

CANCER SCREENING - Adds IC 5-10-8-7.8, IC 27-8-14.8 and IC 27-13-7-17
Requires State group health insurance programs to add coverage for colorectal cancer screenings for State employees.

PUBLIC LAW 55 - HOUSE ENROLLED ACT 1295 - EFFECTIVE JULY 1, 2000

VIOLENT CRIME VICTIMS COMPENSATION FUND - Amends IC 5-2-6.1-35
Raises the limit of an award from \$10,000 to \$15,000 from the State's violent crime victims compensation fund.

PUBLIC LAW 56 - HOUSE ENROLLED ACT 1297 - EFFECTIVE JULY 1, 2000

FINGERPRINTS - TAXI CAB DRIVERS AND MASSAGE THERAPISTS - Adds IC 5-2-5-14 - Allows local law enforcement agencies to use fingerprints for the purpose of identification in a request related to a taxicab driver's or massage therapists licence application or reinstatement or renewal of the same license. Requires the local law enforcement agency to charge a fee for such service in an amount set by the State police department and federal authorities.

PUBLIC LAW 61 - HOUSE ENROLLED ACT 1391 - EFFECTIVE JULY 1, 2000

MOTOR VEHICLE HIGHWAY FUND USES - Amends IC 8-14-1-5 - Allows monies in the motor vehicle highway fund to be used for the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

PUBLIC LAW 62 - HOUSE ENROLLED ACT 1395 - EFFECTIVE JULY 1, 2000.

UNIFORM ELECTRONIC TRANSACTIONS ACT - Adds IC 26-2-8 - States that each governmental agency shall determine whether, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records.

Each governmental agency shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

To the extent that a governmental agency uses electronic records and electronic signatures the governmental agency, giving due consideration to security, may specify:

- (1) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for such purposes;
- (2) if electronic records must be electronically signed, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;
- (3) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and audit ability of electronic records; and
- (4) any other required attributes for electronic records that are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

This law does not require a governmental agency to use or permit the use of electronic records or electronic signatures. Standards adopted by a governmental agency must encourage and promote consistency and interoperability with similar requirements adopted by:

- (1) other governmental agencies;
- (2) other states;
- (3) the federal governmental; and
- (4) nongovernmental persons interacting with governmental agencies.

If appropriate, those standards must specify differing levels of standards from which governmental agencies may choose in implementing the most appropriate standard for a particular application.

**PUBLIC LAW 67 - SENATE ENROLLED ACT 76 - EFFECTIVE APRIL 27, 1997
(RETROACTIVE)**

DEATH BENEFITS - PROBATION OFFICERS - Amends IC 5-10-10-4 - Provides that the spouse of a probation officer who died in the line of duty after April 27, 1997 and before January 1, 1998 may receive \$150,000 from the State's special death benefit fund.

PUBLIC LAW 70 - SENATE ENROLLED ACT 147 - EFFECTIVE JULY 1, 2000

LASER POINTERS - Adds IC 35-47-4.5 - Makes it a Class B misdemeanor to direct light from a laser pointer at a public safety officer without that officer's consent.

**PUBLIC LAW 73 - SENATE ENROLLED ACT 171 - EFFECTIVE JANUARY 1, 2000
RETROACTIVE**

ENTERPRISE ZONES - Amends IC 4-4-6.1-1.1 and IC 6-3.1-7-2 Makes several changes to the requirements a business must follow to obtain an enterprise zone credit or exemption.

PUBLIC LAW 78 - SENATE ENROLLED ACT 212 - EFFECTIVE JULY 1, 2000

INSURANCE COVERAGE - MORBID OBESITY - Adds IC 5-10-8-7.7, IC 27-8-14.1 and IC 27-13-7-14.5 - Requires the State of Indiana to provide insurance coverage for State for the treatment of morbid obesity.

PUBLIC LAW 79 - SENATE ENROLLED ACT 218 - EFFECTIVE JULY 1, 2000

RECREATIONAL VEHICLES - Amends IC 9-20-3-2, IC 9-20-5-4 and IC 9-20-6-6 Allows a recreational vehicle to be a maximum length of 45 feet. Designates State Road 912 from the 15th Avenue and 169th Street interchange 1.06 miles north to U.S. 20 interchange and U.S. 20 from the State Road 912 interchange 3.17 miles east to U.S. 12 as extra heavy duty highways.

PUBLIC LAW 89 - SENATE ENROLLED ACT 419 - EFFECTIVE MARCH 15, 2000

VALIDATION OF BONDS - IMPA AND INTERLOCAL AGREEMENTS - Amends IC 5-1-1-1 - Validates all debt obligations, contracts for the purchase of electric power from IMPA, and interlocal agreements entered into before March 15, 2000.

PUBLIC LAW 94 - SENATE ENROLLED ACT 490 - EFFECTIVE JULY 1, 2000

WATER UTILITIES - DISTRIBUTION SYSTEM IMPROVEMENT CHARGES (DSIC) - Adds IC 8-1-31 - Allows city and town water utilities under the jurisdiction of the Indiana Utility Regulatory Commission (IURC) to apply for a DISC rate increase with the IURC for DISC to recover the costs of improvements to its distribution system under certain circumstances. Also authorizes public health agencies and the IURC to order a city or a town to extend water service to certain individuals served by private water wells in certain circumstances.

PUBLIC LAW 98 - HOUSE ENROLLED ACT 1008 - EFFECTIVE JANUARY 1, 2000 AND JULY 1, 2000 (RETROACTIVE)

PUBLIC NOTICE - Amends IC 5-3-1-4 - States that if no newspaper is published in a city or town, then publication of notices shall be made in a newspaper published in the county where the city or town is located and that circulates within the city or town. The notice shall be posted at or near the city or town hall; or at the public building where the governing body of the city or town meets; or at the post office (or the bank if there is not post office), if the city or town does not have a city or town hall.

STATE CALLED MEETINGS - Amends IC 5-11-14-1 - States that each official attending a meeting called by the State Board of Accounts shall be reimbursed, in an amount determined by the city or town council of the city or town the official represents, for meals purchased while attending the meeting. Such payment can also be paid from the general fund without appropriation. (This section is retroactive to January 1, 2000)

CONVEYANCES, MORTGAGES OR INSTRUMENTS OF WRITING - Amends IC 32-1-2-18 - To entitle any conveyance, mortgage or instrument of writing to be recorded, it shall be acknowledged by the grantor or proved before any:

- (1) judge;
- (2) clerk of a court of record;
- (3) auditor;
- (4) recorder;
- (5) notary public;
- (6) mayor of a city in this or any other state;
- (7) commissioner appointed in any other state by the governor of Indiana;
- (8) minister, charge d'affaires, or consul of the United States in any foreign country;
- (9) clerk of the city-county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
- (10) clerk-treasurer for a town; or
- (11) person authorized under IC 2-3-4-1, including a member of the general assembly, The principal clerk of the house of representatives, and the secretary of the senate.

CITY AND TOWN COURT COST FUND - Amends IC 33-19-7-3 - States that a municipality must maintain a law enforcement agency and prosecute at least 50% of its ordinance violations in a circuit, superior, or county court in order to qualify to receive a distribution from the county auditor.

DISHONORED CHECKS - Adds IC 36-1-8-13 - States that a city or town that is unable to obtain payment of a dishonored check shall not later than 90 days after the check is initially received by the city or town refer the matter to the prosecuting attorney for the county where the dishonored check was received for prosecution.

FINANCIAL RECORDS - COPIES TO BE FILED WITH FISCAL OFFICER - Adds IC 36-4-8-15 and IC 36-5-4-14 - Requires each city or town agency, board, commission, district, or other city or town entity to file one copy of that agency's, board's, commission's, district's or entity's financial records with the city or town's fiscal officer.

ATTORNEYS AND LEGAL RESEARCH ASSISTANTS - TOWN CLERK-TREASURERS - Amends IC 36-5-6-8 - States that appropriations for salaries for attorneys and legal research assistants employed by the clerk-treasurer shall be approved in the annual budget and must be allocated to the clerk-treasurer for payment of attorneys' and legal research assistants' salaries.

BOARD OF METROPOLITAN POLICE COMMISSIONERS - Amends IC 36-8-9-3 Adds IC 36-8-9-7 - States that the members of the board shall be appointed by the town legislative body as specified in the ordinance creating the board. Provides that the board may make all appointments to the police department probationary for a period of one year.

SEWER LIENS - Amends IC 36-9-23-33 - Allows a city or a town to record liens as often as it deems necessary.

PUBLIC LAW 112 - HOUSE ENROLLED ACT 1343 - EFFECTIVE MARCH 16 AND JULY 1, 2000

PUBLIC TREATMENT WORKS - NOTIFICATION OF UPSETS IN SYSTEM - Adds IC 13-11-2-177.5, IC 13-11-2-242.3 and IC 13-18-12-8 - Amends IC 13-30-6-1 and IC 13-30-6-3. Requires publicly owned treatment works permittees to notify emergency response personnel with IDEM if an upset has occurred in the treatment system which could pose a threat to human or animal life.

PUBLIC LAW 114 - HOUSE ENROLLED ACT 1354 - EFFECTIVE MARCH 6, 2000

EDGE CREDITS - Adds IC 6-3.1-13-27 - Allows the State's economic development for growing economy board (EDGE) to award tax credits to a high growth company in Hamilton County.

PUBLIC LAW 115 - HOUSE ENROLLED ACT 1393 - EFFECTIVE JULY 1, 2000

INDIANA AFFORDABLE HOUSING FUND - Adds IC 5-20-5 - Establishes the Indiana Affordable Housing Fund to provide grants and loans to eligible entities that provide financial assistance to lower income families to obtain affordable housing.

PUBLIC LAW 118 - SENATE ENROLLED ACT 62 - EFFECTIVE JULY 1, 2000

PUBLIC EMPLOYEES RETIREMENT FUND - Amends IC 5-10.2-3 and IC 5-10.3-11 Allows a designated beneficiary of a deceased member to receive the amount in the member's annuity savings account over a five year period.

1925 POLICE PENSION PLAN, 1937 FIREFIGHTER'S PENSION PLAN, 1953 POLICE PENSION PLAN and the 1977 PLAN - Amends and adds to sections of IC 36-8-6, IC 36-8-7, IC 36-8-7.5 and IC 36-8-8 - Establishes separate sections of law for benefits paid upon death in the line of duty and benefits paid upon death not in the line of duty.

PUBLIC LAW 122 - SENATE ENROLLED ACT 114 - EFFECTIVE MARCH 17 AND JULY 1, 2000

ELECTION LAWS - Makes several technical changes to the election laws contained in Title 3 of the Indiana Code

PUBLIC LAW 123 - SENATE ENROLLED ACT 118 - EFFECTIVE MARCH 17, 2000

MERGERS OF MUNICIPALITIES - DISSOLUTION OF TOWN - Amends IC 36-4-2-9, IC 36-5-1, and IC 36-5-1.1 - Requires certain ordinances and other documents dealing with mergers and dissolutions to be filed with the Secretary of State.

PUBLIC LAW 126 - SENATE ENROLLED ACT 187 - EFFECTIVE VARIOUS DATES

COMMERCIAL PASSENGER AIRPLANES - ALLEN AND ST. JOSEPH COUNTIES Amends IC 6-1.1-10-15 - Exempts certain commercial passenger airplanes from personal property taxes in Allen and St. Joseph Counties.

ECONOMIC REVITALIZATION AREAS (ERAS) - ST. JOSEPH COUNTY - Amends IC 6-1.1-12.1-3 - Allows deductions for the redevelopment or rehabilitation of certain real property consisting of residential facilities located in unincorporated areas.

NEW MANUFACTURING EQUIPMENTS IN ERAS - Adds IC 6-1.1-12.1-4.6 Provides that new manufacturing equipment may be moved without losing the assessed value deduction.

PUBLIC LAW 127 - SENATE ENROLLED ACT 227 - EFFECTIVE JULY 1, 2000

UNCLAIMED PROPERTY AND UNPAID CHECKS - Adds IC 4-10-10-11 and IC 5-11-10.5-7 - Amends IC 32-9-1.5- States that for warrants or checks drawn by the Auditor of State or from public funds of a political subdivision, if the check or warrant is outstanding and unpaid, an agreement to locate and recover the warrant or check is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;
- (2) the agreement is in writing;
- (3) the agreement is signed by the apparent owner; and
- (4) the agreement clearly sets forth:
 - (A) the nature and value of the property; and
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.

COURT TRUST FUNDS - Amends IC 32-9-1.5-20 - Beginning January 1, 2002, all unclaimed trust funds must be treated as unclaimed property after five years.

PUBLIC LAW 131 - SENATE ENROLLED ACT 315 - EFFECTIVE JULY 1, 2000.

MIDWEST INTERSTATE PASSENGER RAIL COMPACT - Adds IC 8-3-22 - Creates the Midwest Interstate Passenger Rail Commission to develop a plan for interstate high speed rail service and other rail services.

PUBLIC LAW 132 - SENATE ENROLLED ACT 317 - EFFECTIVE SEPTEMBER 1, 2000

WATER DISTRIBUTION TREATMENT PLANT OPERATORS - Adds IC 13-18-11-1.5, IC 13-18-11-6.5, IC 13-18-11-7.5 and IC 13-18-10.5 - Amends IC 13-18-11-6, 7 and 8 - Provides that water distribution and treatment plant operators may renew their licenses with the Indiana Department of Environmental Management every three years instead of every two years. Makes several other changes to the certificate renewal process.

PUBLIC LAW 134 - SENATE ENROLLED ACT 351 - EFFECTIVE JULY 1, 2000

REPURCHASE AGREEMENTS - Amends IC 5-13-9-3 - Eliminates reference to sweep accounts in the language on investment of public funds.

PUBLIC LAW 137 - SENATE ENROLLED ACT 355 - EFFECTIVE JULY 1, 2000

AIRPORT BOARD MEETINGS - Amends IC 8-22-2-4 and IC 8-22-3-9 - Allows boards of aviation commissioners and airport authority boards to hold regular or special meetings at public places other than at their offices.

PUBLIC LAW 138 - SENATE ENROLLED ACT 372 - EFFECTIVE JULY 1, 2000

INDUSTRIAL WASTE - Adds IC 13-11-2-109.5 and IC 13-20-7.5 - Amends IC 13-11-2-133, IC 13-20-1-1 and IC 13-20-4-8 - Eliminates the term “special waste” and defines industrial waste and sets the procedures for disposal of industrial waste.

PUBLIC LAW 140 - SENATE ENROLLED ACT 431 - EFFECTIVE MARCH 17 AND JULY 1, 2000

COMBINED SEWER SYSTEMS - IDEM REQUIREMENTS - Adds several sections to IC 13-11-2 - Amends and adds to several sections of IC 13-18-2, IC 13-18-3 and IC 13-18-19. Makes numerous changes to the laws on combined sewers.

PUBLIC LAW 143 - SENATE ENROLLED ACT 511 - EFFECTIVE JANUARY 1, 2001 and 2002

HAZARDOUS WASTE MANIFESTS - Amends IC 13-11, IC 13-22-4 and IC 13-22-5 - Adds IC 13-22-4-3.1 - makes several changes regarding the handling and treatment of hazardous waste.

APPROPRIATION REQUIREMENTS

Cities

Unless a statute provides otherwise, IC 36-4-8-2 requires an appropriation to be made before money can be paid out of the city treasury upon a warrant of the fiscal officer.

Towns

IC 36-5-4-2 states that unless a statute provides otherwise, town moneys may be disbursed only after an appropriation made by ordinance of the town legislative body.

APPROPRIATIONS - WHEN NOT REQUIRED

In some instances statutory authority is given to the city or town fiscal officer to make disbursements without an appropriation having been previously made for the specific purpose. Examples are as follows:

1. Premiums on official bonds. (IC 5-4-5-3)
2. Purchased meals, lodging, and mileage for conferences called by the State Board of Accounts. (IC 5-11-14-1)
3. Federal and State grants, if advanced and not received as a reimbursement of expenditures.
4. Refund of money erroneously received. (IC 6-1.1-18-9)
5. Correction of errors in posting. (IC 6-1.1-18-9)
6. Investment of funds.
7. Repayment of temporary loans.
8. City and town user fee fund disbursements. (March 2000 Cities and Town Bulletin; page 4)
9. Establishment of a cash change fund. (IC 36-1-8-2)
10. Establishment of a petty cash fund. (IC 36-1-8-3)

APPROPRIATIONS - REQUIRED BY CITY/TOWN COUNCIL ONLY

The following is a list of funds which require city/town council approval of an appropriation. Due to the nature of the funds, the State Board of Tax Commissioners does not require submission of an additional appropriation request before the local appropriation can be approved.

1. Clerk's Record Perpetuation Fund (IC 33-19-6-1.5)
2. Cumulative Capital Improvement Fund - Cigarette Tax (IC 6-7-1-31.1)
3. Deferral Program (IC 34-28-5-1)
4. Economic Development Income Tax (EDIT) Fund (IC 6-3.5-7)
5. Electronic Map Generation Fund (IC 5-14-3-8.3)
6. Enhanced Access Fund (IC 5-14-3-8.5)
7. Local Law Enforcement Continuing Education Fund (IC 5-2-8)
8. Park Nonreverting Capital Fund (IC 36-10-3-20)
9. Park Nonreverting Operating Fund (IC 36-10-3-22)
10. Riverboat Fund (IC 36-1-8-9)

APPROPRIATIONS CARRIED FORWARD (ENCUMBRANCES)

Appropriations may be carried forward to the following year if any of the following conditions exist:

1. A lawful contract has been entered into with a vendor or contractor on or before December 31 and all or a part of the contract has not been paid.
2. A purchase order has been issued on or before December 31, entered as an encumbrance against an existing appropriation, and isn't paid as of December 31.
3. Proceeds of a bond issue have been duly appropriated and remain unexpended as of December 31.
4. Appropriations which are obligated by a contract or a agreement executed on or before December 31, between a city or town and any federal or state agency, such as a local road and street project, or federal grant requiring local matching funds.

Only the amount required to meet the balance due on a contract or purchase order may be carried forward. The amount remaining in the appropriation account shall revert to the fund from which appropriated.

TRANSFER OF APPROPRIATIONS

A city or town council may approve the transfer of money from one major budget classification to another within a department or office if the transfer is determined to be necessary, does not require the expenditure of more money than the total amount set out in the budget as finally determined, the transfer is approved at a regular public meeting and by proper ordinance or resolution and the transfer is certified to the county auditor. The transfer may be made without notice and without the approval of the State Board of Tax Commissioners. (IC 6-1.1-18-6)

APPROPRIATION OF INSURANCE CLAIM PROCEEDS

The appropriating body of a political subdivision may appropriate funds received from an insurance company if: (1) the funds are received as a result of damage to property of the political subdivision; and (2) the funds are appropriated for the purpose of repairing or replacing the damage property. However, the funds must be expended to repair or replace the property within the twelve month period after they are received. (IC 6-1.1-18-7)

PAYMENT OF FUNDS DUE DECEASED PERSON

This office is often contacted regarding the correct method of making payment of money due an official, employee, or other person who has died. If an executor, administrator or personal representative has been designated by the court, payment should be made to such executor, administrator or personal representative.

IC 29-1-8-1 states in part: “(a) Forty-five (45) days after the death of a decedent, any person indebted to the decedent or having possession of personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be entitled to payment or delivery of property of the decedent upon being presented an affidavit made by or on behalf of the claimant stating that:

- (1) The value of the gross probate estate wherever located, less liens and encumbrances,
does not exceed twenty-five thousand dollars (\$25,000);
- (2) Forty-five (45) days have elapsed since the death of the decedent;
- (3) No application or petition for the appointment of a personal representative is pending
or has been granted in any jurisdiction; and
- (4) The claimant is entitled to payment or delivery of the property . . .”(Our emphasis).

Following is a suggested format for an affidavit for transfer of assets without administration. Since this is a legal question, please discuss the article and suggested affidavit with your legal counsel.

PAYMENT OF FUNDS DUE DECEASED PERSON, (CONTINUED)

The affidavit furnished should be similar to the following:

STATE OF INDIANA)
COUNTY)SS:

AFFIDAVIT FOR TRANSFER OF ASSETS
WITHOUT ADMINISTRATION

_____, being first duly sworn upon _____
oath deposes and says:

1. That _____ Died on the _____ Day of _____, 20__ (Testate),
(Intestate) while domiciled in _____ County, Indiana.
2. That no petition for the appointment of a personal representative of his estate is
pending or has been granted.
3. That forty-five (45) days have elapsed since the death of said decedent.
4. The value of the gross probate estate less liens and encumbrances thereon does not
exceed twenty-five thousand dollars (\$25,000).
5. That this affiant is a (widow) (widower) (distributee) of said decedent and is entitled
to receive without administration the following listed property from the person, firm
or corporation listed opposite said property subject to the liens and encumbrances
thereon.

Kind of Property	Where Located	Value	Lien or Encumbrances If Any	Name and Address of Person, Firm or Corporation Holding Property of Decedent
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

This affidavit is made for the purpose of inducing the above named holders of said decedent's property to
turn said property over to this affiant as provided by law.

AFFIANT

ADDRESS

Subscribed and sworn to before me this _____ Day of _____, 20__

Notary Public

CREDIT CARDS

Since there is no specific statutory authority for the use of credit cards by local governmental units, if the Common Council or Town Council, by a Home Rule ordinance, authorizes the use of credit cards, the State Board of Accounts would not take audit exception if certain conditions are followed.

If credit cards are authorized, we feel: (1) the city attorney or town attorney should provide written approval to the proper body; (2) the Common Council (and the Board of Public Works and Safety) in a city or Town Council in a town should authorize the use of credit cards in their board minutes along with any restrictions imposed; (3) the issuance and use of the credit card(s) should be delegated to, and handled by, some responsible city or town official, possibly the city controller or city or town clerk-treasurer; (4) in each instance of use of the card(s), once the purpose for which the card(s) were issued is accomplished, the card(s) should be returned to the designated responsible official. Hopefully, this last condition would lessen the risk of losing the credit cards or misuse of the cards for personal purposes.

Assuming credit cards are found to be properly authorized, the State Board of Accounts, would not take exception for payment of the annual "membership fee", "service fee", or "renewal charge" levied by the credit card issuer.

Care should be taken that no interest, carrying charges, or penalties are incurred due to late payments. All claims filed in connection with use of the credit cards must be itemized as provided in IC 5-11-10 before being approved and paid. If the claims are not itemized or properly documented, they should be returned to the employee user for correction. If any interest or penalty is incurred due to late filing or the furnishing of documentation by an employee, the employee should be held responsible for paying the interest or penalty charges.

It goes without saying, all costs incurred and charged with the credit cards must be business related and not personal in nature. We feel a reasonable "tip" or gratuity is allowable where service has been provided. Such items as cleaning, pressing, laundry, personal telephone calls, etc., are personal and should not be paid from public funds.

TUITION REIMBURSEMENT

It appears that under the provisions of the Home Rule statute contained in IC 36-1-3 that a city or town could by ordinance authorize tuition reimbursement for qualified training costs directly related to providing city or town services. This assumes sufficient appropriations and funds are available to cover the costs to be reimbursed.

At a minimum, sufficient documentation of course completions and the related tuition cost should be required prior to any reimbursement.

Consideration should be given to the possible tax consequences to the employees and the reporting requirements of the city or town as employer. It will be necessary to contact the Department of Revenue and the Internal Revenue Service to find out their positions regarding these reimbursements. Pursuant to IC 36-8-1-11, the reimbursements would not be included in salaries in computing pension assessments or pension benefits for police officers and firefighters.